

Par. (1)(C). Pub. L. 105-85, §1102(a)(1), added subpar. (C).

Par. (3)(B). Pub. L. 105-85, §1102(a)(2), inserted “or (C)” after “paragraph (1)(B)”.

1991—Par. (2). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1988—Par. (3). Pub. L. 100-325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service in concluding provisions.

1981—Par. (3). Pub. L. 97-89 inserted reference to Defense Intelligence Senior Executive Service and Senior Cryptologic Executive Service in concluding provisions.

1980—Par. (3). Pub. L. 96-191 inserted reference to General Accounting Office in concluding provisions.

1979—Par. (3). Pub. L. 96-54, §2(a)(8), inserted provision excepting applicants for, or members of, Senior Executive Service.

Par. (5). Pub. L. 96-54, §2(a)(9)(A), struck out provision excepting applicants for, or members of, Senior Executive Service.

1978—Par. (2). Pub. L. 95-454, §307(a)(1), struck out “and” at end.

Par. (3). Pub. L. 95-454, §307(a)(2), (3), inserted “, except as provided in paragraph (4) of this section” after “means”, and substituted a semicolon for the period at end.

Pars. (4), (5). Pub. L. 95-454, §307(a)(4), added pars. (4) and (5) relating to retired members of the armed forces.

Par. (5). Pub. L. 95-454, §401(d), inserted “; but does not include applicants for, or members of, the Senior Executive Service” before the period at end.

1976—Par. (1)(B). Pub. L. 94-502 substituted “any part of which occurred after January 31, 1955, and before the date of enactment of the Veterans’ Education and Employment Assistance Act of 1976,” for “after January 31, 1955.”

1971—Par. (3)(D). Pub. L. 92-187 inserted “or widower” after “unmarried widow”.

Par. (3)(E). Pub. L. 92-187 inserted “or husband” after “the wife”.

1968—Par. (3)(D). Pub. L. 90-623 inserted “as defined by paragraph (1)(A) of this section” after “veteran”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-89 effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96-191.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 2(a)(8) of Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

Section 2(a)(9)(B) of Pub. L. 96-54 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect October 1, 1980”.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 307(a) of Pub. L. 95-454 provided that the amendment made by that section is effective Oct. 1, 1980.

Amendment by section 401(d) of Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 effective Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SAVINGS PROVISION

Pub. L. 109-163, div. A, title XI, §1112(b), Jan. 6, 2006, 119 Stat. 3451, provided that: “Nothing in the amend-

ment made by subsection (a) [amending this section] may be construed to affect a determination made before the date of enactment of this Act [Jan. 6, 2006] that an individual is a preference eligible (as defined in section 2108(3) of title 5, United States Code).”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2109. Air traffic controller; Secretary

For the purpose of this title—

(1) “air traffic controller” or “controller” means a civilian employee of the Department of Transportation or the Department of Defense who, in an air traffic control facility or flight service station facility—

(A) is actively engaged—

(i) in the separation and control of air traffic; or

(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

(B) is the immediate supervisor of any employee described in subparagraph (A); and

(2) “Secretary”, when used in connection with “air traffic controller” or “controller”, means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

(Added Pub. L. 92-297, §1(a), May 16, 1972, 86 Stat. 141; amended Pub. L. 96-347, §1(a), Sept. 12, 1980, 94 Stat. 1150; Pub. L. 99-335, title II, §207(b), June 6, 1986, 100 Stat. 594.)

AMENDMENTS

1986—Par. (1). Pub. L. 99-335 amended par. (1) generally including within term “air traffic controller” or “controller” references to a flight service station facility and to employment providing preflight, inflight, or airport advisory service to aircraft operators and striking out provision that regulations prescribed by the Secretary be used in determining who is an air traffic controller.

1980—Pub. L. 96-347 substituted “controller; Secretary” for “controller” in section catchline, and in text included employees of the Department of Defense within the meaning of air traffic controller or controller and defined “Secretary” to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 3 of Pub. L. 96-347 provided that: “This Act [amending this section and sections 3307, 3381 to 3385, and 8335 of this title and enacting provisions set out as a note under section 8335 of this title] shall take effect on the later of—

- “(1) October 1, 1980, or
 “(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980].”

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see, section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec.	
2301.	Merit system principles.
2302.	Prohibited personnel practices.
2303.	Prohibited personnel practices in the Federal Bureau of Investigation.
2304.	Responsibility of the Government Accountability Office.
2305.	Coordination with certain other provisions of law.

AMENDMENTS

2004—Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, substituted “Government Accountability Office” for “General Accounting Office” in item 2304.

§ 2301. Merit system principles

- (a) This section shall apply to—
- (1) an Executive agency; and
 - (2) the Government Printing Office.
- (b) Federal personnel management should be implemented consistent with the following merit system principles:
- (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.
 - (2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
 - (3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.
 - (4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.
 - (5) The Federal work force should be used efficiently and effectively.
 - (6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
 - (7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
 - (8) Employees should be—
- (A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

(Added Pub. L. 95-454, title I, §101(a), Oct. 13, 1978, 92 Stat. 1113; amended Pub. L. 101-474, §5(c), Oct. 30, 1990, 104 Stat. 1099.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-474 redesignated par. (3) as (2) and struck out former par. (2) which provided that this section is applicable to Administrative Office of United States Courts.

EFFECTIVE DATE

Chapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

NOTIFICATION AND FEDERAL EMPLOYEE
ANTIDISCRIMINATION AND RETALIATION

Pub. L. 107-174, May 15, 2002, 116 Stat. 566, as amended by Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242, provided that:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002’.

“(b) **TABLE OF CONTENTS.**—[Omitted.]

“TITLE I—GENERAL PROVISIONS**“SEC. 101. FINDINGS.**

“Congress finds that—

“(1) Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination;

“(2) Congress has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees, that point to chronic problems of discrimination and retaliation against Federal employees;

“(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against